



Board of Administration

Agenda Item 11a

April 18, 2018

Item Name: Further Consideration – In the Matter of the Application for Industrial Disability Retirement of DENISE C. PATTEN, Respondent, and CALIFORNIA HIGHWAY PATROL, Respondent.

Program: Benefit Services Division

Item Type: Action

Parties' Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent Denise C. Patten argues that the Board of Administration should reject the Proposed Decision and grant her appeal.

Respondent California Highway Patrol's position is included in Attachment B, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent Patten submitted an application for industrial disability retirement based on an orthopedic (back and neck) condition. CalPERS denied the application. Respondent Patten appealed this determination and the matter was heard by the Office of Administrative Hearings on November 13, 2017. A Proposed Decision was issued on November 30, 2017, denying the appeal.

At its February 14, 2018, meeting, the Board considered the Proposed Decision of the Administrative Law Judge and concluded not to adopt it, but instead to decide the matter itself on the record after affording the parties the opportunity for further argument. The complete hearing record is attached, along with any written arguments submitted by the parties. Additionally, all parties have been notified of their right to present oral argument at the meeting on April 18, 2018.

Alternatives

- A. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, after reviewing the record produced before the Administrative Law Judge and considering written and oral argument presented by the parties, hereby determines to adopt its own decision concerning the appeal of Denise C. Patten; RESOLVED FURTHER that this Board Decision shall be prepared in accordance with the Board's direction and presented to the Board for adoption at the Board's next monthly meeting.

- B. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System hereby adopts as its own decision the Proposed Decision dated November 30, 2017, concerning the appeal of Denise C. Patten; RESOLVED FURTHER that this Board's Decision shall be effective immediately.

- C. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System requests the parties in the matter concerning the appeal of Denise C. Patten, as well as interested parties, to submit written argument regarding whether the Board's Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees' Retirement System, hereby designates as precedential its Decision concerning the appeal of Denise C. Patten.

Attachments

Attachment A: Staff's Argument

Attachment B: Respondent(s) Argument(s)

Attachment C: Procedures for Full Hearing, Notice of Hearing and Proof of Service

Attachment D: February 14, 2018 Board Agenda Item

Attachment E: Transcript of November 13, 2017 Administrative Hearing

Attachment F: Transcript of February 14, 2018 Board Meeting

Attachment G: Administrative Hearing Exhibits submitted by CalPERS

Attachment H: Administrative Hearing Exhibits submitted by Respondent Patten

Attachment I: November 30, 2017 Proposed Decision

DONNA RAMEL LUM
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Customer Services and Support